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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Avery Li-Chun Wang

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EXAMINER

CHOUDHURY, AZIZUL Q

ART UNIT

PAPER NUMBER

2445

MAIL DATE

DELIVERY MODE

11/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	09/671,571		WANG ET AL.	
	Examiner		Art Unit	
	AZIZUL CHOUDHURY		2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-47 and 49-96 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-47 and 49-96 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/30/08</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 12, 2008 has been entered.

Allowable Subject Matter

The indicated allowability of claims 85-96 is withdrawn in view of the newly discovered reference(s) to Chen et al (US Patent No: 7,444,353), Sonoda (US Patent No: 6,121,530) and Chacker (US Patent No: 6,578,008). Rejections based on the newly cited reference(s) follow.

Claim Objections

Claim 35 is objected to because of the following informalities: The claims listing lists claims 1-35 as being cancelled. However claim 35 is also listed within the claims listing as being currently amended and within the remarks, the applicant indicates that claims 1-34 are to be cancelled. Therefore the examiner is proceeding with the

examination of the case under the assumption that claims 1-34 are intended to be cancelled. Appropriate correction is required.

Claim 88 is objected to because of the following informalities: The phrase, "...to store manipulate data..." is believed to be "...to store manipulated data..." Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-47, 49-66, 69-71, 74-82, 85-86, 88, 91-92 and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (US Patent No: 7,444,353) in view of Sonoda (US Patent No: 6,121,530), hereafter referred to as Chen and Sonoda, respectively.

1. With regards to claim 35, Chen teaches through Sonoda, a method for providing a transaction to a user having a remote device, where the user is exposed to a music broadcast, the method comprising: directly receiving from the remote device a signal, the signal including a captured sample of the music broadcast (*Chen teaches a portable communication device (equivalent to the claimed remote device) receiving a portion of music from an audio source (equivalent to claimed sample of music*

broadcast) and transfers the portion of music to the host computer; see column 2, lines 36-40, Chen); determining from the signal a characteristic of the captured sample (Chen's host computer identifies the received portion of music; see column 2, lines 39-42, Chen); determining the identity of the music in the captured sample using the signal characteristic (see column 2, lines 39-42 and column 16, lines 1-13, Chen); and triggering a predetermined transaction with the user involving the music identified in the captured sample (Chen teaches the transmission of the identified music to a reception unit; see column 2, lines 42-46, Chen).

While Chen teaches the comparing of the captured portion of music to the music database to find a match, Chen does not explicitly teach that the captured sample of music (signal) is compared by its characteristics. In the same field of endeavor, Sonoda also teaches a music identification system. Within Sonoda's disclosure, it is taught how a captured input melody (captured signal) is compared against a music database for matching frequencies (equivalent to the claimed characteristic of the captured sample) (see column 3, line 65 – column 4, line 20, Sonoda). The comparison of two portions of music data by frequency helps to more accurately find the desired music. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Chen with those of Sonoda, to provide accurate music searches by audio signals; see column 1, lines 58-61, Sonoda).

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2. With regards to claim 36, Chen teaches through Sonoda, the method wherein the predetermined transaction includes sales and purchase of merchandise (*see column 19, lines 54-62 and column 21, lines 30-35, Chen*).
3. With regards to claim 37, Chen teaches through Sonoda, the method wherein the predetermined transaction includes an offer for sale of merchandise (*see column 19, lines 54-62, Chen*).
4. With regards to claim 38, Chen teaches through Sonoda, the method wherein the offer for sale of merchandise includes an offer to sell recordings of music (*see column 19, lines 54-62 and column 21, lines 30-35, Chen*).
5. With regards to claim 39, Chen teaches through Sonoda, the method wherein the recording is related to a characteristic of the captured sample (*see column 16, lines 40-51 and column 19, lines 54-62, Chen*).
6. With regards to claim 40, Chen teaches through Sonoda, the method wherein the predetermined transaction includes furnishing and receiving information (*see column 2, lines 47-49, Chen*).
7. With regards to claim 41, Chen teaches through Sonoda, the method wherein the predetermined transaction includes delivery of advertising or promotional offers (*see column 19, lines 54-62 and (see column 20, lines 30-38, Chen)*).
8. With regards to claim 42, Chen teaches through Sonoda, the method wherein the promotional offers include trial offers (*see column 20, lines 30-38, Chen*).

9. With regards to claim 43, Chen teaches through Sonoda, the method wherein the promotional offers include offers to sell merchandise or services at discounted prices (*see column 20, lines 30-38, Chen*).
10. With regards to claim 44, Chen teaches through Sonoda, the method wherein the predetermined transaction includes an exchange of information between a sales source and the user attendant to a sale of merchandise or services to the user (*see column 21, lines 30-35, Chen*).
11. With regards to claim 45, Chen teaches through Sonoda, the method wherein the offer is selected in response to a profile of the user (*see column 15, lines 50-58 and column 15, lines 5-12 and column 16, lines 40-51, Chen*).
12. With regards to claim 46, Chen teaches through Sonoda, the method wherein the offer is selected in response to history of transactions completed with the user (*see column 8, lines 23-27 and column 16, lines 40-51, Chen*).
13. With regards to claim 47, Chen teaches through Sonoda, a method for identifying music to a user, the user having a remote device, the method comprising: receiving a signal directly from the remote device, the signal including a captured sample of the music from the user (*Chen teaches a portable communication device (equivalent to the claimed remote device) receiving a portion of music from an audio source (equivalent to claimed sample of music) and transfers the portion of music to the host computer; see column 2, lines 36-40, Chen*); wherein the music is audible by the user and the captured sample includes a sample of the music (*Chen teaches the*

portion of music from an audio source being a sample of music from a radio; see column 2, lines 12-20, Chen); determining from the signal a characteristic of the captured sample (Chen's host computer identifies the received portion of music; see column 2, lines 39-42, Chen); comparing the characteristic of the captured sample to a characteristic associated with identity records contained in a database (see column 2, lines 39-42 and column 16, lines 1-13, Chen); and locating an identity record corresponding to the captured sample according to a result of the comparison (Chen teaches the discovery of the captured sample of music. It is implicit that since a database is searched to determine the identity of the music, that a record exists for the music since data (the music information) is stored within the database; see column 2, lines 39-42 and column 16, lines 1-13, Chen).

While Chen teaches the comparing of the captured portion of music to the music database to find a match, Chen does not explicitly teach that the captured sample of music (signal) is compared by its characteristics. In the same field of endeavor, Sonoda also teaches a music identification system. Within Sonoda's disclosure, it is taught how a captured input melody (captured signal) is compared against a music database for matching frequencies (equivalent to the claimed characteristic of the captured sample) (see column 3, line 65 – column 4, line 20, Sonoda). The comparison of two portions of music data by frequency helps to more accurately find the desired music. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Chen with those

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of Sonoda, to provide accurate music searches by audio signals; see column 1, lines 58-61, Sonoda).

14. With regards to claim 49, Chen teaches through Sonoda, the method further including returning the identity record to the user (*see column 2, lines 47-49, Chen*).

15. With regards to claim 50, Chen teaches through Sonoda, the method further including offering to sell to the user a recording including at least a song which corresponds to the located identity record (*see column 16, lines 40-51 and column 19, lines 54-62, Chen*).

16. With regards to claim 51, Chen teaches through Sonoda, the method further including offering to provide to the user information relating to the located identity record (*see column 2, lines 47-49 and column 19, lines 54-62, Chen*).

17. With regards to claim 52, Chen teaches through Sonoda, the method further including a step of playing a recording of a song corresponding to the located identity record to the user (*see column 6, lines 28-29, Chen*).

18. With regards to claim 53, Chen teaches through Sonoda, the method further including a step of offering to sell merchandise (*see column 19, lines 54-62, Chen*).

19. With regards to claim 54, Chen teaches through Sonoda, the method wherein the merchandise relates to the located identity record (*see column 19, lines 54-62, Chen and column 16, lines 40-51, Chen*).

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20. With regards to claim 55, Chen teaches through Sonoda the method further including offering to sell live performance tickets (*see column 19, lines 54-62, Chen*).
21. With regards to claim 56, Chen teaches through Sonoda the method wherein the live performance tickets relate to the located identity record (*see column 15, lines 5-12 and column 19, lines 54-62, Chen*).
22. With regards to claim 57, Chen teaches through Sonoda the method further including offering to sell record albums to be released at a future time (*see column 19, lines 54-62, Chen*).
23. With regards to claim 58, Chen teaches through Sonoda the method further including offering to provide information pertaining to a location of retail music establishments (*see column 9, lines 3-8, Chen*).
24. With regards to claim 59, Chen teaches through Sonoda the method wherein the information further includes information pertaining to a location of retail music establishments that are in close proximity to the user (*see column 9, lines 3-8, Chen*).
25. With regards to claim 60, Chen teaches through Sonoda the method further including downloading media to a user device (*see column 1, lines 63-66, column 2, lines 4-11 and column 2, lines 44-46, Chen*).

26. With regards to claim 61, Chen teaches through Sonoda the method wherein the download media includes a pre-recorded song corresponding to the located identity record (*see column 2, lines 44-46, Chen*).
27. With regards to claim 62, Chen teaches through Sonoda the method wherein the user device is selected from the group consisting of PCs, PDAs, internet access devices, wireless internet devices, mobile telephones, wireless information devices, and pagers (*see column 1, lines 63-66, Chen*).
28. With regards to claim 63, Chen teaches through Sonoda the method further including receiving commands from the user in response to the returned identity record (*see column 13, lines 33-46, Chen*).
29. With regards to claim 64, Chen teaches through Sonoda the method further including performing an additional predetermined step in response to the command (*see column 13, lines 33-46, Chen*).
30. With regards to claim 65, Chen teaches through Sonoda the method wherein the predetermined step includes delivering a message to a third party (*see column 21, lines 23-28, Chen*).
31. With regards to claim 66, Chen teaches through Sonoda the method wherein the message includes a recommendation of music corresponding to the located identity record (*see column 20, line 25, Chen*).

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32. With regards to claim 69, Chen teaches through Sonoda the method wherein the predetermined step includes playing additional songs not associated with the located identity record to the user (*see column 20, lines 14-22, Chen*).
33. With regards to claim 70, Chen teaches through Sonoda the method wherein the predetermined step includes locating one or more music performance artists matching a predetermined criterion (*see column 20, lines 14-29, Chen*).
34. With regards to claim 71, Chen teaches through Sonoda the method wherein the criterion includes similarity of the one or more music performance artists to an artist associated with the located identity record (*see column 20, lines 14-29, Chen*).
35. With regards to claim 74, Chen teaches through Sonoda the method wherein the predetermined step includes providing information pertaining to popularity of a song or music performance artist associated with the located identity record (*see column 19, lines 54-62 and column 20, lines 22-29, Chen*).
36. With regards to claim 75, Chen teaches through Sonoda the method wherein the predetermined step includes delivering information to the user (*see column 1, line 67 – column 2, line 1, Chen*).
37. With regards to claim 76, Chen teaches through Sonoda the method wherein the information pertains to the located identity record (*see column 1, line 67 – column 2, line 1, Chen*).

38. With regards to claim 77, Chen teaches through Sonoda the method wherein the information is delivered in an SMS format (*see column 5, lines 49-56 and column 6, lines 37-39, Chen*).
39. With regards to claim 78, Chen teaches through Sonoda the method wherein the information pertains to new album releases (*see column 19, lines 54-62, Chen*).
40. With regards to claim 79, Chen teaches through Sonoda the method wherein the information pertains to scheduling of concerts (*see column 19, lines 54-62, Chen*).
41. With regards to claim 80, Chen teaches through Sonoda the method wherein the concert is related to the located identity record (*see column 19, lines 54-62, Chen*).
42. With regards to claim 81, Chen teaches through Sonoda the method further including storing the captured sample (*see column 8, lines 14-27, Chen*).
43. With regards to claim 82, Chen teaches through Sonoda the method wherein the predetermined step includes delivering an excerpt of a recording of a song corresponding to the located identity record (*see column 6, lines 5-6, Chen*).

44. With regards to claim 85, Chen teaches through Sonoda, a method for identifying music to a user exposed to a broadcast that includes unidentified music, comprising: receiving a signal including a captured sample of the broadcast from a cell phone of the user, the cell phone transmitting the captured signal over the cellular network said broadcast comprising music (*Chen teaches a portable communication device, that can be a cell phone (see column 6, lines 35-44, Chen), receiving a portion of music from an audio source (equivalent to claimed sample of music broadcast) and transfers the portion of music to the host computer; see column 2, lines 36-40, Chen*); determining from the signal a characteristic of the captured sample (*Chen teaches the host computer identifying the sample music; see column 2, lines 39-42, Chen*); comparing the characteristic of the captured sample to a characteristic associated with an identity record contained in a database (*Chen's host computer identifies the received portion of music by comparing the sample to music in the database (it is implicit that the music data within the database is stored as records); see column 2, lines 39-42 and column 16, lines 1-13, Chen*); attempting to locate an identity record corresponding to the captured sample according to a result of the comparison (*see column 16, lines 1-13 and lines 28-34, Chen*); and storing the captured sample if the location attempt is unsuccessful (*Chen teaches that if the search is unsuccessful the server uses the database comparison against the sampled music method; see column 16, lines 28-34, Chen. It is implicit that when a data such as sampled music is to be compared, it is stored within at least a buffer*

(see column 14, lines 55-63, Chen) (otherwise a computing device is unable to use the data/sampled music)).

While Chen teaches the comparing of the captured portion of music to the music database to find a match, Chen does not explicitly teach that the captured sample of music (signal) is compared by its characteristics. In the same field of endeavor, Sonoda also teaches a music identification system. Within Sonoda's disclosure, it is taught how a captured input melody (captured signal) is compared against a music database for matching frequencies (equivalent to the claimed characteristic of the captured sample) (see column 3, line 65 – column 4, line 20, Sonoda). The comparison of two portions of music data by frequency helps to more accurately find the desired music. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Chen with those of Sonoda, to provide accurate music searches by audio signals; see column 1, lines 58-61, Sonoda).

45. With regards to claim 86, Chen teaches through Sonoda the method further including delivering the captured sample to remote locations *(see column 16, lines 28-34, Chen).*

46. With regards to claim 88, Chen teaches through Sonoda, a method for identifying music to a user exposed to a broadcast, which includes unidentified music, comprising: receiving a signal from a cell phone of the user, the signal including a

captured sample of the broadcast from the user, said broadcast comprising music (*Chen teaches a portable communication device, that can be a cell phone (see column 6, lines 35-44, Chen), receiving a portion of music from an audio source (equivalent to claimed sample of music broadcast) and transfers the portion of music to the host computer; see column 2, lines 36-40, Chen*); determining from the signal a characteristic of the captured sample (*Chen teaches the host computer identifying the sample music; see column 2, lines 39-42, Chen*); comparing the characteristic of the captured sample to a characteristic associated with an identity record contained in a database (*Chen's host computer identifies the received portion of music by comparing the sample to music in the database (it is implicit that the music data within the database is stored as records); see column 2, lines 39-42 and column 16, lines 1-13, Chen*); attempting to locate an identity record corresponding to the captured sample according to a result of the comparison (*Chen teaches the discovery of the captured sample of music. It is implicit that since a database is searched to determine the identity of the music, that a record exists for the music since data (the music information) is stored within the database; see column 2, lines 39-42 and column 16, lines 1-13, Chen*); and providing an interactive interface for the user to store manipulate data associated with a successfully located identity record (*see column 3, lines 4-14 and column 8, lines 18-27, Chen*).

While Chen teaches the comparing of the captured portion of music to the music database to find a match, Chen does not explicitly teach that the captured sample of music (signal) is compared by its characteristics. In the same field of endeavor,

Sonoda also teaches a music identification system. Within Sonoda's disclosure, it is taught how a captured input melody (captured signal) is compared against a music database for matching frequencies (equivalent to the claimed characteristic of the captured sample) (see column 3, line 65 – column 4, line 20, Sonoda). The comparison of two portions of music data by frequency helps to more accurately find the desired music. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Chen with those of Sonoda, to provide accurate music searches by audio signals; see column 1, lines 58-61, Sonoda).

47. With regards to claim 91, Chen teaches through Sonoda the method wherein the interface is arranged to allow the user to store, retrieve and forward the data (see column 8, lines 18-27, Chen).

48. With regards to claim 92, Chen teaches through Sonoda the method wherein the interface is arranged to allow the user to communicate with third parties (see column 13, lines 39-46 and column 21, lines 23-28, Chen).

49. With regards to claim 95, Chen teaches through Sonoda the method wherein the interface is arranged to allow the user to forward data to a website (see column 20, lines 14-22 and column 19, lines 54-62, Chen).

50. The obviousness and motivation applied to claims 35, 47, 85 and 88 are applicable to their respective dependent claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 67-68, 72-73, 83-84, 87, 89-90, 93-94 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (US Patent No: 7,444,353), Sonoda (US Patent No: 6,121,530) and Chacker (US Patent No: 6,578,008), hereafter referred to as Chen, Sonoda and Chacker, respectively.

51. With regards to claim 67, Chen teaches through Sonoda and Chacker, the method wherein the predetermined step includes a collection of data indicative of music popularity

While Chen and Sonoda teach the matching of sampled music to a music database to find the inquired music and to purchase that music, both fail to explicitly cite the ranking of the music and the popularity of the music. In the same field of endeavor, Chacker teaches how systems exist whereby users are able to provide feedback (provide critical review) concerning music (see column 5, lines 29-30 and 41-42, Chacker) and users are able to get data on the popularity of music (see column 6, lines 57-60 and column 12, lines 36-44, Chacker). By informing users of the popularity of certain music, a user is able to select more desirable music for

purchase. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Chen and Sonoda with those of Chacker to allow users to purchase more desirable music.

52. With regards to claim 68, Chen teaches through Sonoda and Chacker, the method wherein the collected data includes data received from the user (*see column 20, lines 53-67, Chen*).

53. With regards to claim 72, Chen teaches through Sonoda and Chacker, the method wherein the predetermined step includes providing a critical review of a music performance artist associated with the located identity record (*see column 5, lines 29-30 and 41-42, Chacker*).

54. With regards to claim 73, Chen teaches through Sonoda and Chacker, the method wherein the predetermined step includes providing critical review of a record album containing a song corresponding to the located identity record (*see column 5, lines 29-30 and 41-42, Chacker*).

55. With regards to claim 83, Chen teaches through Sonoda and Chacker, the method wherein the excerpt is delivered to the user (*see column 6, lines 28-29, Chen*).

56. With regards to claim 84, Chen teaches through Sonoda and Chacker, the method wherein the excerpt is delivered to a third party (*see column 6, lines 28-29 and column 21, lines 23-28, Chen*).

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57. With regards to claim 87, Chen teaches through Sonoda and Chacker, the method wherein the delivered captured samples are used in games or contests involving attempts to identify the unidentified music (*see column 12, lines 7-8 and 32-34, Chen and column 8, lines 52-55, Chacker*).

58. With regards to claim 89, Chen teaches through Sonoda and Chacker, the method wherein the interface is selected from the group consisting of real-time interfaces, offline interfaces, and combinations thereof (*see column 1, line 61, Chen and column 5, line 6, Chacker*).

59. With regards to claim 90, Chen teaches through Sonoda and Chacker, the method wherein the offline interface is selected from the group consisting of internet browsers, email, SMS messaging, and combinations thereof (*see column 5, line 6 and lines 41-42, Chacker*).

60. With regards to claim 93, Chen teaches through Sonoda and Chacker, the method wherein the interface is arranged to allow the user to participate in games or contests (*see column 12, lines 36-44, Chacker*).

61. With regards to claim 94, Chen teaches through Sonoda and Chacker, the method wherein the games or contests include identifying unidentified songs (*see column 12, lines 7-8 and 32-34, Chen and column 8, lines 52-55, Chacker*).

62. With regards to claim 96, Chen teaches through Sonoda and Chacker, the method wherein the website is configured to provide personalized radio station services to

the user (*see column 4, lines 60-61 and column 7, line 67 – column 8, line 1, Chacker*).

63. The obviousness and motivation applied to claim 67 are applicable to claims 68, 72-73, 83-84, 87, 89-90, 93-94 and 96.

Response to Remarks

Applicant's arguments with respect to claims 35-47 and 49-96 have been considered but are moot in view of the new ground(s) of rejection. Since the specification has been put back into its original form, the previously issued specification objection for new matter and the 112 first paragraph rejection have been withdrawn. Furthermore in lieu of the claim amendments in conjunction with the applicant's arguments and reconsideration of the claims, a new search has been performed and a new office action has been created with the newly found prior arts. In addition, in light of the discovery of the latest prior arts, the previously indicated allowability of claims 85-96 has been withdrawn.

The new prior art Chen teaches a portable communication device (equivalent to the claimed remote device) receiving a portion of music from an audio source (equivalent to claimed sample of music broadcast) and transfers the portion of music to the host computer; see column 2, lines 36-40, Chen). Chen's host computer then identifies the received portion of music by comparing it against a music database (see

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column 2, lines 39-42 and column 16, lines 1-13, Chen) The identified music is then transferred to a reception unit; see column 2, lines 42-46, Chen.

While Chen teaches the comparing of the captured portion of music to the music database to find a match, Chen does not explicitly teach that the captured sample of music (signal) is compared by its characteristics. In the same field of endeavor, Sonoda also teaches a music identification system. Within Sonoda's disclosure, it is taught how a captured input melody (captured signal) is compared against a music database for matching frequencies (equivalent to the claimed characteristic of the captured sample) (see column 3, line 65 – column 4, line 20, Sonoda).

Finally the Chacker prior art is introduced to illustrate how means exist whereby a music distribution design allows for the ranking and reviewing of music.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AZIZUL CHOUDHURY whose telephone number is (571)272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Azizul Choudhury/
Examiner, Art Unit 2445